

DOCKET FILE COPY ORIGINAL

RECEIVED

JUN 16 2003

Federal Communications Commission  
Office of Secretary

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

In the Matter of

Amendment of Section 73.622(b),  
Table of Allotments,  
Digital Television Broadcast Stations,  
(Hagerstown and Silver Spring, Maryland).

)  
)  
)  
)  
)  
)  
)

MM Docket No. 02-\_\_\_\_  
RM-\_\_\_\_\_

To: Chief, Media Bureau

**SUPPLEMENT TO PETITION FOR RULEMAKING**

Entravision Holdings, LLC ("Entravision"), the licensee of Station WJAL(TV), Channel 68, Hagerstown, Maryland (the "Station" or "WJAL"), by its attorneys, hereby further supplements the Petition For Rulemaking that it filed on October 3, 2002, wherein it requested the amendment of the Table of Allotments for Digital Television Stations, in Section 73.622(b) of the Commission's Rules (the "DTV Table of Allotments"), to change the community of license for the Station's paired DTV Channel 16 allotment from Hagerstown to Silver Spring, Maryland. In support thereof, Entravision states as follows:

In connection with the instant request for a modification in the DTV Table of Allotments, Entravision has informed the Commission of its intention to return its 700 MHZ analog authorization, on UHF Channel 68, to the Commission upon commencement of operations by WJAL on DTV Channel 16, allotted to Silver Spring, Maryland. The return of such

No. of Copies rec'd 074  
List ABCDE

authorization, on a channel that has been reallocated to public safety purposes, is consistent with the Commission's decision to migrate the usage of the 700 MHz band from broadcast television to other services, including public safety. See *Report and Order* in GN Docket No. 01-74, 17 FCC Rcd 1022 (2002).

Entravision submits that its proposed return of the Channel 68 analog allotment will meet Commission requirements. The Commission has provided a presumptive test for voluntary band clearing in the upper 700 MHz band, where Channel 68 is located. See *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking* in WT Docket No. 99-168, et al., 15 FCC Rcd 20845, 20869 (2000).

As provided for by the Commission, the presumption in favor of the return of an upper 700 MHz analog authorization occurs when "an applicant demonstrates that the grant of its request will both result in certain specific benefits and specific detriments." *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking* in WT Docket No. 99-168, *supra* at p. 20870. The individual elements of the presumption are:

- A. The request would make new or expanded wireless service available to consumers;
- B. The request would clear commercial frequencies that enable the provision of public safety services; or
- C. The request would result in the provision of wireless services to rural or other underserved communities.

The second element of the presumption is applicable owing to the reallocation of Channel 68 to public safety services.

Consistent with the benefits of the band clearing proposal, there must be no detriment resulting therefrom. *Opinion and Order and Further Notice of Proposed Rulemaking* in WT Docket No. 99-168, et al. at p. 20870. The detrimental elements that need to be considered are:

- A. The loss of any of the four stations in the DMA with the largest audience share.
- B. The loss of the sole service licensed to the community.
- C. The loss of a community's sole service on a channel reserved for noncommercial educational broadcast service.

In that WJAL is a commercial station, only the first and second detrimental elements apply. WJAL is not one of the four stations in the Washington, D.C. DMA<sup>1</sup>. As for local service, WJAL is just one of the three television stations authorized and operating at Hagerstown, Maryland. The others are Station WHAG-TV, licensed to Quorum of Maryland License L.L.C., and Station WWPB(TV), a non-commercial educational television station licensed to the Maryland Public Broadcasting Commission. Accordingly, Hagerstown will continue to have authorized transmission services if the analog signal is returned.

Considering these factors, Entravision submits that it is entitled under the Commission's presumption to return the analog allotment for WJAL on Channel 68. Such a result will benefit the public interest by enabling the public safety community to make use of the returned spectrum. Given the need for improved homeland security, such a result is even more important today. Accordingly, Entravision once again urges the Commission to issue a Notice of Proposed Rulemaking in this proceeding so that the proposed service improvements can be made and

---

<sup>1</sup> Hagerstown, Maryland, WJAL's community of license, is treated by Nielsen Media Research as being part of the Washington, D.C. DMA.

Channel 68 at Hagerstown, Maryland returned to the Commission for reallocation to the public safety community.

Respectfully submitted,

**ENTRAVISION HOLDINGS, LLC**

By: 

Barry A. Friedman, Esq.  
Thompson Hine LLP  
1920 N Street, N.W.  
Suite 800  
Washington, D.C. 20036  
(202) 331-8800

June 16, 2003